IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Childress et al.**	§	Group Art Unit: **2444**
	§	
Serial No. **10/753,817**	§	Examiner: **Anwari, Maceeh**
	§	
Filed: **January 8, 2004**	§	Confirmation No.: **6768**
	§	
For: **Method and Apparatus for**	§	
Supporting Transactions	§	

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PATENT TRADEMARK OFFICE
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Commissioner for Patents
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Alexandria, VA 22313-1450

REPLY BRIEF (37 C.F.R. 41.41)

This Reply Brief is submitted in response to the Examiner's Answer mailed on May 27, 2010.

No fees are believed to be required to file a Reply Brief. If any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447.

RESPONSE TO EXAMINER'S ANSWER

I.   New Ground of Rejection

The Examiner provides a new ground of rejection on pages 6-9 of the Examiner Answer dated May 27, 2010. In particular, Claim 11 is newly rejected under 35 USC 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

The corresponding structure for the claimed 'means for analyzing the identified transaction' includes an algorithm that transforms the data processing system 300 of Figure 3 into a specialized network dispatcher 206 of Figure 2 (Specification page 11, lines 2-4). As to the description of what the means for analyzing does (i.e., the algorithm), transactions identified as being handled by each known node sending data packets for such transactions are **analyzed'** *to identify usage of the resources used by such transactions* (Specification page 3, lines 13-28). This 'analysis' is thus able to **identify a mismatch in system capabilities due to the occurrence of a failure** (Specification page 4, lines 2-4) – thereby advantageously identifying potential load balancing inadequacies (Specification page 4, lines 4-7). The 'analysis' includes **tracking transactions for a set of nodes that have been identified as sending data packets for such transactions, such that the loading of work for different nodes can be identified** (Specification page 5, lines 10-13). This identification of node loading by such 'analysis' is also described in the Specification at page 12, lines 27-28, where such identification is *based on transactions being handled by the different nodes*. In this manner, it is possible to identify whether all of the nodes are being evenly utilized through such analysis. In particular, 'analysis' of transactions is made *with respect to usage,* such that capability and changes in provisioning or assignment of servers may occur *based on such usage analysis* (Specification page 13, lines 1-4). *Usage* **analysis** is also described on page 15, line 14 – page 16, line 19 of the Specification. The relative traffic between nodes is analyzed. Relative node *usage* can be graphically depicted. In one example, absence of any data for a given node being analyzed indicates that transactions are not being handled by the server, with an 'analysis' being performed *to identify why transactions are not being handled by a particular server*. This type of monitoring and 'analysis'

advantageously allows for the identification of the distribution of the loads between machines in a non-intrusive manner (Specification page 16, lines 12-14).

Thus, as shown above, the Specification describes how the 'analysis' is performed – and in particular an analysis of resource usage is performed for identified transactions - in a non-intrusive fashion to facilitate identification of unbalanced loading based on the tracking of transactions for nodes that have been identified as having sent data packets for such transactions. This analysis description thus transforms the data processing system 300 of Figure 3 into a specialized network dispatcher 206 of Figure 2.

In addition, the fact that such node usage analysis is performed using various statistically processes or algorithms to determine such node usage does not diminish the fact that how the analysis is performed is described in the Specification as analyzing usage of transactions handled by different identified nodes, as described hereinabove.

Thus, the rejection of Claim 11 under 35 USC 112, second paragraph is clearly erroneous.

II.   Response to Arguments

On pages 9-13 of the Examiner's Answer dated May 27, 2010, the Examiner merely re-hashes the 'Response to Arguments' that were previously made on pages 7-10 of the Examiner's Answer dated July 29, 2009. These 'Response to Arguments' comments have already been addressed by Appellants in their Reply Brief filed on September 21, 2009. For the sake of brevity and ease of reference, Appellants expressly incorporate by reference herein all of the Response to Examiner's Answer comments made by Appellants on pages 2-6 of such previously filed Reply Brief.

CONCLUSION

The Examiner has failed to properly establish prima facie obviousness with respect to all claims, as described hereinabove, in Appellants' Appeal Brief, and in Appellants' Reply Brief dated September 21, 2009. Claims 11 and 22-24 have also been erroneously rejected under 35 USC 112, 2nd paragraph, as described hereinabove, in Appellants' Appeal Brief, and in Appellants' Reply Brief dated September 21, 2009. Claims 18-20 have also been erroneously rejected under 35 USC 101, as such claims fully comply with the USPTO's _own guidelines_, as described in Appellants' Appeal Brief.

Thus, the Examiner has failed to state valid rejections against any of the claims. Therefore, Appellants request that the Board of Patent Appeals and Interferences reverse the rejections.

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